

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1137V

Filed: July 22, 2019

UNPUBLISHED

CHRISTINA HARRIS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

David J. Ward, Michel & Ward, Chattanooga, TN, for petitioner.

Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On September 14, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) following an influenza (“flu”) vaccine administered on September 19, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 12, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for a SIRVA. On July 19, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$150,000.00

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

comprised of \$132,269.17 for pain and suffering and \$17,730.83 for payment of a Medicaid lien. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards**

- (1) Petitioner a lump sum payment of \$132,269.17 in the form of a check payable to petitioner, Christina Harris.** This amount represents compensation for all damages that would be available under § 300aa-15(a); and
- (2) A lump sum payment of \$17,730.83, representing compensation for satisfaction of the State of Tennessee Medicaid Lien, payable jointly to petitioner³ and to:**

Optum
75 Remittance Drive
Suite 6019
Chicago, IL 60675-6019
TennCare File# 28322746

The clerk of the court is directed to enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Petitioner agrees to endorse this payment to Optum.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

CHRISTINA HARRIS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 16-1137V
Chief Special Master Dorsey
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On April 10, 2017, respondent filed a Rule 4(c) Report conceding that petitioner is entitled to vaccine compensation for her Shoulder Injury Related to Vaccine Administration (“SIRVA”) injury. The Chief Special Master’s Ruling on Entitlement, adopting respondent’s recommendation, was issued on April 12, 2017.

Based upon the evidence of record, respondent proffers that petitioner¹ should be awarded \$150,000.00. This is comprised of pain and suffering (\$132,269.17) and payment of a Medicaid lien (\$17,730.83), and represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).² Petitioner agrees.

¹ Petitioner is a competent adult, therefore evidence of guardianship is not required in this case.

² Should Petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through:

- a) lump sum payment of **\$17,730.83**, representing compensation for full satisfaction of the State of Tennessee Medicaid lien, in the form of a check payable jointly to petitioner and

Optum
75 Remittance Drive
Suite 6019
Chicago, IL 60675-6019
TennCare File# 28322746

Petitioner agrees to endorse this payment to Optum.

- b) a lump sum of **\$132,269.17** in the form of a check payable to petitioner. This amount represents compensation for all remaining damages that would be available under 42 U.S.C. § 300aa-15(a).

Petitioner agrees.

Respectfully submitted,

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Assistant Attorney General

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Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
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/s/ Adriana Teitel
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Dated: July 19, 2019